



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Introduce an Ordinance to Amend Sunnyvale Municipal Code Title 12 Chapter 12.24 (Water & Sewers), Adopt a Resolution to Amend the Fee Schedule to Include Penalties for Water Theft and Unreported Water Consumption from Hydrant Water Meters, and Find that the Actions are Exempt from CEQA

BACKGROUND

This report recommends additions to the Municipal Code Title 12 Chapter 12.24 to clarify that theft of City water is unlawful, impose penalties for water theft and establish regulations for use of construction hydrant meters. The purpose of the proposed amendments is to address water theft and use of construction hydrant meters and to better define and clarify the unlawful use of water and set a penalty structure and appeals process.

Water is needed on construction sites for a variety of activities such as concrete work and plastering, dust suppression, hydro-demolition, and cleaning of tools and equipment. Contractors generally obtain water from a nearby fire hydrant using a city-issued construction hydrant meter. Over the last several months there have been several incidents where individuals connected directly to a fire hydrant without an approved meter and backflow device. This represents a water quality concern if a backflow device is not used when drawing water from a hydrant. It also represents revenue losses as water is being used without the ability to charge for usage. Criminal prosecution is generally not feasible in such cases because of difficulty proving the amount of water taken. By imposing a significant administrative penalty for water theft, the City hopes to deter such activities especially by construction contractors.

The proposed amendments will also define and clarify the use of construction hydrant meters for the purposes of ensuring that these units are used in accordance with Municipal Code Title 12 and California State Drinking Water Regulations. Currently, there are no requirements in the Municipal Code that regulate the use of construction hydrant meters or require timely reporting of water usage.

EXISTING POLICY

General Plan Policy EM - 4.3: Provide appropriate security and protection of water facilities.

GOAL EM-3 Reliable and Safe Water Distribution

Ensure the reliable and safe delivery of water

ENVIRONMENTAL REVIEW

This action does not require environmental review under the California Environmental Quality Act (CEQA) because it does not involve any commitment to any specific project which may result in a potentially significant impact to the environment. (CEQA Guideline 15061 (b)(3))

DISCUSSION

The changes being recommended in the proposed ordinance are intended to clarify and update terms and procedures used to administer the relevant Chapters in the Municipal Code, particularly related to water theft and the use of construction hydrant meters used for development projects. The following are highlights of substantive updates to the Code:

Water Theft:

The proposed ordinance will clarify that it is unlawful to take water from the City water system unless an authorized meter device is installed. The current Municipal Code (section 12.24.110) makes it unlawful to tamper with water mains and equipment, but there are no provisions that specifically prohibit theft of water from the City system. The proposed ordinance will also allow the Director of Environmental Services to impose a \$1,000 administrative penalty for water theft which could be issued directly to the offender or may be placed on a customer's water bill. Any penalty imposed under this section may be appealed by filing a written notice with the City Manager no later than ten days after receipt of the notice imposing the penalty. The City Manager will designate a hearing officer for the appeal hearing, who after considering all testimony and evidence submitted will issue a written decision to uphold or cancel the penalty. The decision of the hearing office is final.

It is also critical to ensure that only approved devices with appropriate backflow prevention are allowed to be connected to the City's potable water system. This will safeguard public health by preventing back siphonage and possibly contaminating the water supply.

Construction Hydrant Meters:

The proposed ordinance adds a provision that requires a permit be issued by the Environmental Services Department before any person takes water from public service hydrants. This will ensure proper meters are used on hydrants and allow the City to track water use from hydrants. The Department of Public Safety (DPS) already uses proper apparatus to connect to hydrants; however water used for emergencies by DPS is not expected to be tracked and is considered lost water.

The proposed ordinance will establish regulations for the use of construction hydrant meters and authorize the City to impose appropriate fees, including a \$250 late fee for unreported water consumption. The \$250 will be imposed on any person taking water from a fire hydrant who fails to report their water consumption by the tenth day of the month in accordance with the permit. Should the tenth of a month falls on a Saturday, Sunday or City Holiday, then the deadline will be extended to the following business day.

FISCAL IMPACT

There is no cost associated with the Ordinance update, however the action by Council will likely result in reduced unauthorized water use from hydrants and resulting in reducing costs associated with water purchase. There will also be slight revenue increase should the city impose penalties for unauthorized water use from hydrants.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of

the City Clerk and on the City's website.

ALTERNATIVES

1. Introduce an Ordinance to Amend Sunnyvale Municipal Code Title 12 Chapter 12.24 (Water & Sewers), Adopt a Resolution to Amend the Fee Schedule to Include Penalties for Water Theft and Unreported Water Consumption from Hydrant Water Meters, and Find that the Actions are Exempt from CEQA
2. Provide other direction to staff.

STAFF RECOMMENDATION

Alternative 1: Introduce an Ordinance to Amend Sunnyvale Municipal Code Title 12 Chapter 12.24 (Water & Sewers), Adopt a Resolution to Amend the Fee Schedule to Include Penalties for Water Theft and Unreported Water Consumption from Hydrant Water Meters, and Find that the Actions are Exempt from CEQA.

Prepared by: John Ramirez, Water Operations Manager

Reviewed by: John Stufflebean, Director of Environmental Services

Reviewed by: Timothy J. Kirby, Director of Finance

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Proposed ordinance
2. Amendment to the Fee Resolution
3. Exhibit A